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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application of:

Atty. Docket

Jack E. Haken

US010712

Serial No.: 10/029,832

Group Art Unit 2161

Filed: December 27, 2001

Examiner: Jamisue E. Webb

WIRELESS INTERACTIVE RENDEZVOUS SYSTEM FOR DELIVERING GOODS
AND SERVICES

Commissioner for Patents
Alexandria, VA 22313-1450

AMENDMENT AND RESPONSE TO THE OFFICE ACTION OF JULY 27, 2004

Sir:

Applicant responds to the office action of July 27, 2004 as follows.

Amendment to the Claims

Please cancel claims 9 and 12 and amend the claims as shown on the attached copy.

Response to the Rejections and Comments

Claim 1 is amended to correct antecedence.

The Examiner apparently misread claim 1 when he states that such claim recites that the order can be "either an item or a service" (Claim 1 in fact recited that the order can be goods and/or services). Nevertheless, to simplify prosecution, claim 1 has been amended to clarify that an ordered item can be a good and or a service.

Claim 1 stands rejected as indefinite inasmuch as the Examiner believes that the reference to calculating a position is unclear. Applicant respectfully traverses this rejection and requests that it be withdrawn. Calculation of positions is common in the navigation arts and whole texts have been dedicated to the subject. Furthermore, the

specification at page 9, line 19 *et seq.* gives an example of such calculation using the methods taught in U.S. Patent 6,324,476. It is submitted that the claim language is therefore not indefinite.

Claim 1 –4 stand rejected as indefinite because the Examiner believes that the recited steps do not complete the “objective of the preamble” Applicant is unaware of any rule of law which requires that the recited method steps “complete” any objective. Furthermore, claim 1 is written in open format wherein the connective word “comprising” admits other actions that could be accomplished to complete the delivery of the goods and/or services. Withdrawal of the rejection is urged.

Claims 8, 10, 11 and 13 stand rejected as indefinite because the Examiner states that a product claim cannot modify a method step. Applicant does not presently choose to write these claims in independent form. Applicant traverses the rejections and asserts that the claims should be allowed as follows:

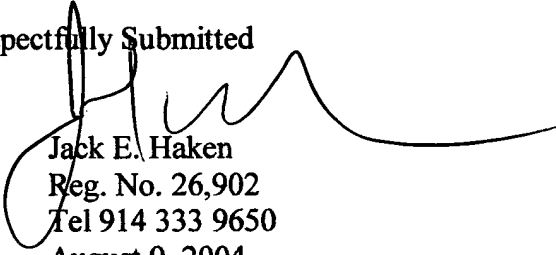
- A. Applicant first notes that claim 10 is a method claim; it is not a product claim.
- B. None of product claims 8, 11 and 13 seek to in any way modify the method steps of the claims from which they depend.
- C. The Examiners rejection is directly contrary to the holding of the Board of Patent Appeals and Interferences in Ex Parte Moelands and Schutte (3 U.S.P.Q.2d 1474) which held that 35 U.S.C. 112 fourth paragraph, initially merely requires that a dependent claim contain 'a reference' to a claim previously set forth.

The Art Rejections

All Claims stand rejected as anticipated and/or obvious over the Wood patent application taken alone or in combination with O'Meara.

Applicant made the invention claimed in the present application before the October 10, 2001 P.C.T. filing date of the Wood application. Enclosed herewith are Declarations of Jack. E. Haken And Laurie Gathman under Rule 131 which establish conception of the invention prior to October 10, 2001 and diligence during the critical period from October 10, 2001 until the actual filing of a United States Patent Application on December 27, 2001. Inasmuch as the Wood application does not qualify as prior art under 35 U.S.C. 102(e) the art rejections cannot stand and should be withdrawn.

Respectfully Submitted



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August 9, 2004

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner of Patents and Trademarks, Washington, D.C. 20231	
on	<u>Aug 9 2004</u>
JACK E. HAKEN, REG. 26,902	
